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09/989,479	11/20/2001	Todd D. Graham	081871-0103	1151
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FOLEY & LARDNER LLP 111 HUNTINGTON AVENUE 26TH FLOOR BOSTON, MA 02199-7610			EXAMINER CHANKONG, DOHM	
			ART UNIT 2152	PAPER NUMBER
			MAIL DATE 01/09/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/989,479

Applicant(s)

GRAHAM ET AL.

Examiner

Dohm Chankong

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1> This action is in response to Applicant's amendment, filed on 10.25.2007. Claims 1 and 9 are amended. Claims 1-16 are presented for further examination.

2> This is a final rejection.

### *Response to Arguments*

3> Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection necessitated by Applicant's amendment.

Applicant argues that Rabne is only compatible with entire files. The previous examiner asserted that Rabne's digitized data inherently contain "data blocks." In Applicant's arguments, filed on May 26, 2006, Applicant argues that Rabne does not operate on data blocks but teaches accessing entire files. It is well known in the art that digitized data, when transferred over a network, are transmitted as individual "blocks" of information such as packets. An entire file is not simply transferred but is split into a number of packets which are then transmitted individually. Thus, digitized data, when being accessed over a network, inherently contain blocks or packets. The new ground of rejection set forth in this action relies on a prior art reference that teaches the well known feature of enforcing access rights on a packet-by-packet basis. See the rejection that follows.

Applicant also argues that the cited prior art references do not disclose enforcing the usage rights within an operating system kernel without application rewrites. According to Applicant's specification, "OS kernel-level control of files gives enterprises unparalleled

power in their ability to avoid costly application compatibility rewrites and upgrades"

[Applicant's published application, 0122]. Applicant's specification suggests that avoiding application rewrites is merely an effect of performing the enforcement of usage rights within the kernel of the OS. This implication is supported by the well-known fact that files at the kernel level are always running while the system is operating. One of ordinary skill in the art would have reasonably concluded that any attempt to access those particular files at the kernel level would result in a crash of the system. Thus, as long as a prior art reference teaches "kernel-level control of files," the prior art implicitly teaches avoiding application rewrites as well.

The previous examiner rejected the limitation as being well known in the art in light of the Chan reference in the final rejection filed on 9/19/2005. In addition, the newly cited reference in this Office action also teaches performing enforcement of usage rights within an OS kernel. See the rejection that follows.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4> Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rabne et al. (U.S. Patent Number 6,006,332), hereinafter referred to as Rabne, in view of Chan et al. (U.S.

Patent Number 6,505,300), hereinafter referred to as Chan, further in view of Taylor et al, U.S Patent No. 6,728,885 ["Taylor"].

5> Rabne disclosed a system for controlling access to digitized data utilizing a secure rights management server. In an analogous art, Chan disclosed a method for providing restricted execution contexts for untrusted content in a network. Also in an analogous art, Taylor disclosed a system for filtering packets by utilizing, in part, a module operating at the kernel level to examine packets.

6> Concerning claims 1 and 9, Rabne did not explicitly state a client module configured to interface to a client operating system kernel and configured to enforce a set of usage rights within the operating system kernel without application rewrites. However, allowing a system to enforce access rights in an operating system kernel is well known in the art as evidenced by Chan whose system uses a security mechanism at the operating system level to determine usage rights for users or processes. Further, as discussed above, the limitation "without application rewrites" is merely an effect of performing the enforcement within the OS kernel. Thus, since Chan discloses enforcing usage rights at the OS level, Chan implicitly teaches the limitation.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the system of Rabne by adding the ability to use a client module configured to interface to a client operating system kernel and configured to enforce a set of usage rights within the operating system kernel as provided by Chan. Here the

combination satisfies the need for a system to control and monitor the access and use of restricted content on a network. See Rabne, column 3, lines 32-38. See also Taylor who discloses that the kernel always runs when the system is operating [column 4 «lines 51-58»].

7> Also concerning claims 1 and 9, the combination of Rabne and Chan did not explicitly state obtaining the content on an individual block basis and a set of access policies that comprise a set of predefined usage policies associated with the content for said user. Rabne, who teaches the distribution of intellectual property over a network, is not specific on how this content is transferred; for example Rabne is not specific as to whether it is transferred on an individual block basis. However, obtaining content comprising data blocks from content sources on an individual block basis is well known in the art as evidenced by Taylor whose system receives and filters each data packet (which are transmitted individually) as well as a set of access policies that comprise a set of predefined usage policies associated with the content for said user. Taylor's packets correspond to Applicant's claimed "block."

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to modify the combination of Rabne and Chan by adding the ability to obtain content on an individual block basis as well as the access policies that comprise predefined usage policies associated with the content for the user as provided by Taylor. Here the combination satisfies the need for a system to control and monitor the access and use of restricted content on a network. See Rabne, column 3, lines 32-38. The combination also improves Rabne's system as it provides users the capability of dynamically filtering individual packets [Taylor, column 4 «lines 8-12»].

8> Some claims will be discussed together. Those claims which are essentially the same except that they set forth the claimed invention as a method are rejected under the same rationale applied to the described claim.

9> Thereby, the combination of Rabne, Chan, and Taylor discloses:

- <Claims 1 and 9>

A dynamic file access control and management system configured to access one or more content sources including a set of content, said system comprising:

A. a proxy system linked to said one or more content sources, said proxy system comprising an access control module configured to selectively obtain content comprising data blocks from said content sources on an individual block basis as a function of an authorization of a user requesting said content and a set of access policies (Rabne, column 7, lines 5-9 and column 8, lines 55-67, where Taylor teaches obtaining the data on an individual block basis, column 1 «lines 63-65» | column 5 «lines 32-39») that comprise a set of predefined usage policies associated with the content for said user (Taylor, column 2 «lines 37-44» : filtering packets based on previously defined rules | column 12 «line 65» to column 13 «line 2» : looking at the packet's contents to determine whether the packet should be filtered);

B. a rights management module configured to generate a set of usage rights associated with said content as a function of a set of predefined usage policies associated with said content for said user (Rabne, column 8, lines 11-23);

C. at least one client device having a client module configured to interface to a client operating system kernel, said client module configured to enforce the set of usage rights within the operating system kernel without application rewrites (Rabne, column 6, lines 31-45 and Chan, column 5, lines 32-55 and column 11, lines 52-62); and

D. one or more communication means, via which said content and said usage rights are provided to said client device (Rabne, column 3, lines 52-59).

- <Claims 2 and 10>

The system according to claim 1, wherein said content and said usage rights are provided to said client device via different communication means (Rabne, column 10, lines 34-48).

- <Claims 3 and 11>

The system according to claim 1, wherein said content includes static content (Rabne, column 6, lines 53-60).

- <Claims 4 and 12>

The system according to claim 1, wherein said content includes dynamic content (Rabne, column 6, lines 53-60).

- <Claims 5 and 13>

The system according to claim 1, wherein said communication means includes a secure transform configured to encrypt and encapsulate said content into a message as a function of a session ID and said client is configured to extract said content from said message (Rabne, column 7, lines 10-19).



- <Claims 6 and 14>

The system according to claim 1, wherein said proxy system further includes a user interface, configured to facilitate creation and editing of said access policies and said usage policies and association of said access policies and said usage policies with said content (Rabne, column 18, lines 20-32 and 50-67).

- <Claims 7 and 15>

The system as in claim 1, wherein said client device is a device from a group comprising: 1) a personal computer; 2) a workstation; 3) a personal digital assistant; 4) an e-mail device; 5) a cellular telephone; 6) a Web enabled appliance; and 7) a server (Rabne, column 6, lines 31-45).

- <Claims 8 and 16>

The system of claim 1, wherein said proxy system and at least one of said content sources are hosted on the same computing device (Rabne, figure 1b, item 22).

Since the combination of Rabne, Chan, and Taylor discloses all of the above limitations, claims 1-16 are rejected.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Schneider et al, U.S Patent No. 6,105,027;

Flint et al, U.S. Patent No. 6,453,419;

Wong, U.S. Patent No. 6,700,891

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Schwering, U.S. Patent No. 6.717.943;

Chernock et al, U.S. Patent No. 6.772.209;

Schales et al, U.S. Patent No. 7.200.684.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dohm Chankong whose telephone number is 571.272.3942. The examiner can normally be reached on Monday-Friday [8:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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1/7/8